

Chairman Vap called the regularly scheduled meeting to order at 10:03 a.m. with Commissioners Boyle, Lowell Johnson, Landis and Vap present and Commissioner Rod Johnson excused.

GENERAL ADMINISTRATION

Notice was duly published May 18, 2004, on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held May 26, 2004, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceeding:

Wednesday, May 26, 2004:

2:00 Commission Hearing Room, Lincoln.
 Schedule A and E Rates. Commissioner Vap chairing.

COMMUNICATIONS DEPARTMENT

C-2811 In the Matter of Nebraska Technology & Telecommunications,
PI-64 Inc., Omaha, requesting an investigation and remedy of
 Qwest Corporation's Rezoning of Certain Nebraska exchanges
from Zone 2 to Zone 3: Motion made by Commissioner Lowell Johnson,
seconded by Commissioner Anne Boyle to enter an order closing the
docket. Motion passed with Commissioners Anne Boyle, Lowell Johnson,
Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused
Not Voting.

C-3030 In the Matter of Harold Schriner, Guide Rock, currently
 receiving telephone service from ALLTEL Nebraska, Inc.,
seeking authority to change the boundary area to receive telephone
service from the Lawrence exchange of Glenwood Telephone Membership
Corporation: Motion made by Commissioner Frank Landis, seconded by
Commissioner Lowell Johnson to enter an order dismissing the appli-
cation. Motion passed with Commissioners Anne Boyle, Lowell Johnson,
Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused
Not Voting.

C-3150 In the Matter of FreedomStarr Communications, Inc., Los
 Angeles, California, seeking a Certificate of Public Con-
venience and Necessity to provide resold interexchange telecommuni-
cations services in the State of Nebraska: Motion made by Commis-
sioner Lowell Johnson, seconded by Commissioner Frank Landis to enter
an order withdrawing the application at the applicant's request.
Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank
Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not
Voting.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3184 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of its Qwest DSL (with discount) provided with UNE-P Amendment to its interconnection agreement with MCI Metro Access Transmission Services, LLC, San Ramon, California, previously granted in Application C-2257: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

C-3185 In the Matter of Electric Lightwave, Inc., Salt Lake City, Utah, seeking to restructure its business from a corporation to a limited liability company and change its name to Electric Lightwave, LLC: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

C-3212 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of its Commercial Line-Sharing Amendment with DIECA Communications, Inc., d/b/a Covad Communications Company, Santa Clara, California, previously granted in Application C-2335: Gene Hand informed the Commission that a commercial agreement had been filed that would go into effect after the expiration of the SGAT.

Gene Hand informed the Commission that a Petition for Rule-making or, in the alternative, Initiation of a Commission Investigative Proceeding was received on May 21, 2004, from Chase 3000 Inc., Skybeam, McCookNet Internet Service, AxtellTech, and Facspro Infotech Consulting, LLC.

Gene Hand informed the Commission that the U.S. Supreme Court had granted the Federal Communications Commission (FCC) a 30-day extension to challenge a ruling on the triennial review order and the FCC, CLECs and some states have filed at the D.C. Circuit for an extension of its stay.

Gene Hand informed the Commission that Verizon and Bell-South had withdrawn from the Intercarrier Compensation Forum.

Upon agreement of all Commissioners present, comments will be filed with the FCC in W.C. Docket No. 04-36.

UNIVERSAL SERVICE FUND

NUSF-4 In the Matter of the Commission, on its own motion, seeking to determine the level of the fund necessary to carry out the Nebraska Telecommunications Universal Service Fund Act beginning July 1, 2004: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to approve keeping the NUSF surcharge at 6.95 percent for the 2004/2005 Fiscal Year. Motion passed with Commissioners Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Anne Boyle voting NAY, and Commissioner Rod Johnson Excused Not Voting.

Jeff Pursley reported on Late-Filed Carrier Remittances. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis that the current complaint NUSF-37.30 against LDMI Telecommunications be expanded to include the late-filed April worksheet, that complaints should also be filed against Reduced Rate Long Distance and Z-Tel Communications, and, that late fees be levied against Comcast Business Communications, and TracFone Wireless, Inc. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Jeff Pursley reported and reviewed with the Commission the correspondence received from Pierce Telephone requesting NUSF eligibility.

Jeff Pursley reported on a memo from the State Treasurer informing the Commission that there will now be a charge for returned ACH payments. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to approve the NUSF Director to assess a returned ACH fee of \$25.00 and send a notice to all Nebraska carriers. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Jeff Pursley reported that a proposed stipulation had been received from NUI Telecom regarding the NUSF-37.22 complaint.

E911 DEPARTMENT

911-011/ In the Matter of the Commission, on its own motion, seeking
PI-79 to establish Phase II enhanced wireless 911 service implementation: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis to enter an order ratifying the request for proposal to vendors. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

NATURAL GAS DEPARTMENT

NG-0001 In the Matter of Aquila, Inc., d/b/a Aquila Networks
NG-0002 (Aquila), Omaha, seeking a general rate increase for
NG-0003 Aquila's Rate Area One, Rate Area Two and Rate Area Three:
Motion made by Commissioner Frank Landis, seconded by
Commissioner Lowell Johnson to enter assessment orders for HSD-010 and
DB-004. Motion passed with Commissioners Anne Boyle, Lowell Johnson,
Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused
Not Voting.

NG-0019 In the Matter of the Petition for Declaratory Ruling of
Metropolitan Utilities District of Omaha (M.U.D.), seeking
a determination that Neb. Rev. Stat. §§ 57-1302 through 57-1307 and
Neb. Rev. Stat. § 66-1849 and Neb. Admin. Code, Title 291, Chapter 9,
Sections 003.01 through 003.11 and Section 009.01 do not apply to a
natural gas supply and transportation arrangement between M.U.D. and
Nebraska Public Power District (N.P.P.D.): Laura Demman informed the
Commission that a Motion for Rehearing was filed by Metropolitan
Utilities District on May 20, 2004. An oral argument on the Motion
for Rehearing was set for June 1, 2004, at 2:00 p.m. in the Commission
Hearing Room, Lincoln. Commissioner Landis will preside as Hearing
Officer.

NG-0020/ In the Matter of the Commission, on its own motion, seeking
PI-80 to conduct a review related to a settlement agreement among
the State of Nebraska, acting by and through the Governor's
Policy Research Office; the Nebraska Public Service Commission; and
Kinder Morgan, Inc., a Kansas corporation: Motion made by Commis-
sioner Lowell Johnson, seconded by Commissioner Anne Boyle to enter a
Notice of Assessment Order. Motion passed with Commissioners Anne
Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commis-
sioner Rod Johnson Excused Not Voting.

NG-0023 In the Matter of Kinder Morgan, Inc., Lakewood, Colorado,
seeking a waiver of notice and publication and to implement
supply cost adjustment rate schedules applicable to Nebraska Rate
Schedules CGS (Choice Gas Service), ACGS-NSS (Agricultural Choice Gas
Service Non-Seasonal Service), and ACGS-SS (Agricultural Choice Gas
Service Seasonal Service): Laura Demman informed the Commission that
Kinder Morgan filed a letter on May 24, 2004, committing to release
upstream capacity identified in the original filing and to recalculate
the gas cost adjustment on a monthly basis. Public Advocate Roger Cox
informed the Commission that he has reviewed the filings and does not
object to the Commission granting the application for a waiver of the
30-day notice period. Motion made by Commissioner Frank Landis,
seconded by Commissioner Lowell Johnson to enter an order granting
application and an order to provide Notice of Assessment. Motion
passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis,
Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

NATURAL GAS DEPARTMENT (Cont.)

NG-0008 In the Matter of Metropolitan Utilities District, Omaha, seeking authority for Competitive Natural Gas Provider authority in the state of Nebraska: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson to direct the Attorney General to appeal the District Court decision issued May 11, 2004 in M.U.D.'s appeal of the Commission's order entered in the docket. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Laura Demman reported that Congressman Lee Terry introduced HR 4413 last week. HR 4413 is intended to expedite federal review of applications to construct onshore, liquefied natural gas (LNG) terminals.

TRANSPORTATION DEPARTMENT

Rate Division

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-F: The fuel surcharge was retained at 24 cents per mile and the taxi surcharge was increased to 50 cents per trip.

GENERAL ADMINISTRATION

Approval of Commission invoices. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

DAS - Communications	\$ 2,186.09
DAS - Transportation Services Bureau	864.75
Larry Fauss	800.00
Kelly Services	1,160.61
Kelly Services	1,193.51
Rod Johnson	332.25
Gerald Vap	705.04

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

Aksarben TDD Service	212.95
Audiology Services & HAC PC	169.95
Hearing Clinic Inc.	420.00
Carl A. Johnson	213.65
K-D Communications	981.85
Professional Hearing Aid Services	629.85
Sherard Hearing Aid Center	401.50

GENERAL ADMINISTRATION (Cont.)

Upon agreement of all Commissioners present, authorization was granted for Angela Melton to attend the 46th Annual Regulatory Studies Program sponsored by the Institute of Public Utilities to be held at Michigan State University, Lansing, Michigan, from August 1-6, 2004.

Upon agreement of all Commissioners present, authorization was granted for Fred Massing to travel to Clay Center, Kansas, on May 26, 2004, to perform a modular housing unit factory inspection of Wardcraft Homes with all expenses, including time, to be reimbursed to the Commission by Wardcraft Homes.

Commissioner Landis left the Commission Hearing Room, Lincoln.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson to purchase three Dicky John GAC 2100b grain moisture meters. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Jerry Vap voting AYE, Commissioners Rod Johnson, Frank Landis Excused Not Voting.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson to purchase Arc Publisher software. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Jerry Vap voting AYE, Commissioners Rod Johnson, Frank Landis Excused Not Voting.

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle to go into closed session. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Jerry Vap voting AYE, Commissioners Rod Johnson, Frank Landis Excused Not Voting.

The Commission discussed personnel and litigation issues. Commissioner Landis returned to the Commission Hearing Room.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Frank Landis to return to open session. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Motion made by Commissioner Frank Landis, seconded by Commissioner Anne Boyle to offer the Receptionist/Administrative Support position to Jackie Clanton. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Frank Landis to approve a 2% COLA increase for Commission employees effective July 1, 2004. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Frank Landis, seconded by Commissioner Anne Boyle to perform a comprehensive review and evaluation of all Commission staff. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Frank Landis to open the position of motor transportation investigator. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

The meeting adjourned at 11:21 a.m. with Commissioners Boyle, Lowell Johnson, Landis and Vap present and Commissioner Rod Johnson absent. The next regularly scheduled meeting will be held on June 2, 2004, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on June 1, 2004.

Chairman

Executive Director